

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-6582.M5

MDR Tracking Number: M5-04-1706-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 2-12-04. The requestor submitted a withdrawal letter for the fee portion of the dispute, codes 99214 and 99080-73 billed on 8-27-03 and denied per the Medicare Fee Guideline.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits, aquatic therapy, electrical stimulation, and ultrasound were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service from 8-20-03 to 8-25-03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 29th day of April 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

DZT/dzt

April 9, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-1706-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ____ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ____ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ____ for independent review. In addition, the ____ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a female who sustained a work related injury on _____. The patient reported that while at work she injured her back. The patient has undergone several x-rays of the lower spine, an EMG on 7/9/02, a spinal and extremity ultrasound on 7/11/02, and a lumbar MRI on 7/19/02, 3/14/03, and 9/25/03. The diagnoses for this patient have included lumbar sprain/strain, lumbar disc displacement, lumbosacral arthropathy, and lumbar strain with degeneration of lumbosacral disc. Treatment for this patient's condition has included physical therapy, lumbar epidural steroid injections, lumbar facet/SI injections, radiofrequency facet neurotomy, and bilateral median branch block. The patient has also been treated with oral medications, ice packs, aquatic therapy, electrical stimulation, and ultrasound.

Requested Services

Aquatic therapy, electrical stimulation, ultrasound and office visit from 8/20/03 through 8/25/03.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is upheld.

Rationale/Basis for Decision

The ____ chiropractor reviewer noted that this case concerns a 43 year-old female who sustained a work related injury to her back on _____. The ____ chiropractor reviewer indicated that the patient had been treated with chiropractic and medical treatment, physical therapy, injections to the lumbar spine, electrodiagnostic testing, and diagnostic ultrasound testing. The ____ chiropractor reviewer noted that a MRI of the lumbar spine dated 7/19/03 indicated an extruded fragment at L3-4 encroaching the right neural foramina, an annular tear and protrusion encroaching the left neural foramina at L4-5 and mild facet joint arthropathy at L5-S1. The ____ chiropractor reviewer indicated that the patient had received previous chiropractic care through 7/3/03, took a short break, and began further chiropractic treatment on 8/20/03. The ____ chiropractor reviewer also noted that the patient was listed as in the initial phase of treatment as the patient's condition was characterized as a reexacerbation. The ____ chiropractor reviewer indicated that the patient returned to treatment with the same complaints and received the same treatment she had been rendered previously. The ____ chiropractor reviewer explained that the patient had not received any lasting benefit from this care. The ____ chiropractor reviewer also explained that the patient had the same complaints and findings, without evidence of resolution. The ____ chiropractor reviewer further explained that the treatment guidelines call for a short trial of chiropractic care and that the treatment this patient received has far exceeded these guidelines (The American College of Orthopedic and Environmental Medicine Guidelines and The Mercy Guidelines). Therefore, the ____ chiropractor consultant concluded that the aquatic therapy, electrical stimulation, ultrasound and office visit from 8/20/03 through 8/25/03 were not medically necessary to treat this patient.

Sincerely,